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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,114	05/31/2006	Takeshi Horie	09792909-6708	2228

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EXAMINER

SZEKELY, PETER A

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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12/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/596,114	Applicant(s) HORIE ET AL.	
	Examiner Peter Szekely	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following: Applicants submitted a corrected and a clean copy of the specification on 10/29/08 and a corrected copy of the specification on 10/31/08 with instructions that the latest copy is the one to be used. However, no clean copy has been submitted on 10/31/08 and this copy still has the errors (carbonates instead of carboxylates and phosphorus in the middle of the nitrogen compounds) pointed out by the examiner in the rejection of 7/29/08. Furthermore, the pagination and the numbering of the paragraphs are different in the specifications submitted at different times. The amendments to the specification submitted with the amended claims refer to the page numbers of the copies submitted 110/29/08. At this point it is not known what the correct, corrected copy of the specification is.

Appropriate correction is required.

Double Patenting

2. Claims 1-43 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 10/596,139. Although the conflicting claims are not identical, they are not patentably distinct from each other because the phosphorus compounds missing from the claims of the copending application can be found in paragraphs 0034 and 0069 of US 2007/0257239, which is the published copy of said copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-22, 24-34 and 36-43 are rejected under 35 U.S.C. 102(b) as being anticipated by JP-2003-192925, with Yamada et al. 2005/0143502 acting as its English translation.
5. Yamada et al. disclose polymers in claims 1-2, phosphorus and hydroxide compounds in claim 4, particle sizes in claim 7, hydrolysis inhibitors in claim 10, molded articles and housings for electrical appliances in claims 12-14, polyesters and polysaccharides (among them cellulose) in paragraphs 0031-0032, nitrogen flame-retardants in paragraphs 0035 and 0039, nitrates in paragraph 0038, phosphorus containing flame-retardants in paragraph 0037 and hydroxides in paragraph 0042. Applicants' claims are not novel.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 1-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP-2003-192925, with Yamada et al. 2005/0143502 acting as its English translation, in view of Yoshida et al. 2002/0151631.

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8. Yamada et al. has been described already. Yoshida et al. teach nitrogen oxides and nitric and nitrous acid compounds as flame-retardants in polymeric compositions in claims 1-4. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to use the flame-retardants of Yoshida et al. in the compositions of Yamada et al., since it also uses nitrogen containing flame-retardants. The examiner holds that using small particle size flame-retardants is obvious since the larger surface area improves flame-retardance and dispersibility.

9. In the previous Office action the examiner mistakenly referred to Yamada et al. 2007/0257239, instead of Yamada et al. 2005/0143502. The examiner regrets the error.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 6:10 a.m.-4:40 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter Szekely/
Primary Examiner, Art Unit 1796

/P. S./
Primary Examiner, Art Unit 1796
12/3/08